

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BENNIE RAY JOHNSON	§	
VS.	§	CIVIL ACTION NO. 1:06-CV-785
S. MOSES, ET AL.	§	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Bennie Ray Johnson, a prisoner currently confined at the Clements Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

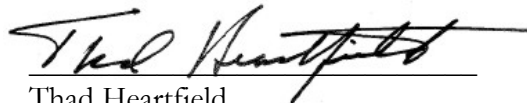
The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action pursuant to 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. In response to the Report and Recommendation, plaintiff filed a motion to dismiss the action voluntarily. After due consideration, the court is of the opinion plaintiff's motion should be granted and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

ORDER

Accordingly, plaintiff's motion to dismiss the case is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

SIGNED this the **5** day of **January, 2007**.


Thad Heartfield
United States District Judge